

## **TITLE 11. DEPARTMENT OF JUSTICE**

### **NOTICE OF PROPOSED AMENDMENTS TO DEPARTMENT OF JUSTICE REGULATIONS PERTAINING TO CHILD ABUSE REPORTS RECORDKEEPING**

NOTICE IS HEREBY GIVEN that the Department of Justice (DOJ), pursuant to the authority vested in it by Penal Code section 11170(a) and in order to administer the requirements set out in Penal Code sections 11169(a) and 11169(b) is proposing to amend DOJ Regulations Pertaining to Child Abuse Reports Recordkeeping (Article 1, Chapter 9, Division 1, Title 11 of the California Code of Regulations).

#### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

##### **Existing Laws and Regulations**

Existing law (Penal Code section 11170(a)) requires DOJ to maintain an index of all reports of child abuse submitted pursuant to Penal Code Section 11169 and to continually update the index. DOJ currently maintains the Automated Child Abuse System (ACAS) as the index required to carry out provisions of the statute. Existing law (Penal Code section 11170(a)) also provides that DOJ may adopt rules governing child abuse recordkeeping and reporting. In 1988, DOJ adopted Regulations Pertaining to Child Abuse Reports Recordkeeping, which were added to the California Code of Regulations as sections 900 through 911 of Article 1, Chapter 9, Division 1, Title 11.

##### **Proposed Amendments to Regulations**

DOJ proposes to amend sections 900, 901, 902, 903, 904, 905, 906, and 907 of the regulations. The proposed amendments are in response to an administrative decision by DOJ to interpret and make specific existing reporting requirements and to implement changes in the law brought about by the passage of Assembly Bill 1241, Chapter 916, Statutes of 2000. Items 1 through 5, following, outline the proposed changes:

1. Section 901 will be amended to delete the definition of “CPA” (“Child Protective Agency”) and to delete the acronym “CPA” in subsequent definitions and substitute appropriate wording. Sections 900 and 902 through 907 will also be amended to delete the acronym “CPA” and substitute appropriate wording.

2. Section 901 will be amended to add as subdivision (a) a definition of “Active Investigation.” (This addition will require that the definitions now set out in section 901 (a) through (e) be redesignated as subdivisions (b) through (f).) The definition proposed is:

“Active Investigation” means the activities of an agency in response to a report of known or suspected child abuse. For purposes of reporting information to the Child Abuse Central Index, the activities shall include, at a minimum: assessing the nature and seriousness of the known or suspected abuse; conducting interviews of the victim(s), and any known suspect(s)

and witness(es); gathering and preserving evidence; determining whether the incident is substantiated, inconclusive, or unfounded; and preparing a report that will be retained in the files of the investigating agency.

3. Section 903(a) will be amended to add information items to the "Child Abuse Investigation Report" portion of Form SS 8583 which will require specific verification, with "yes" or "no" boxes to be checked, that an active investigation was conducted and that the victim(s) and any known suspects and witness(es) were contacted. An explanation from the investigating agency will be required if an item is not completed and/or "no" is checked. Section 903(b) will be amended to make this a mandatory reporting item.

4. Section 903(a) will be amended to add information items to the "Child Abuse Investigation Report" portion of Form SS 8583 which will require specific verification, with "yes" or "no" boxes to be checked, that each known suspect was given notice in writing that he/she has been reported to the Index, including the date the notice was given, as per Penal Code section 11169(b). An explanation from the investigating agency will be required if notice was not provided. Section 903(b) will be amended to make this a mandatory reporting item.

5. The above-proposed amendments will require changes be made to wording in the "Guidelines for Use and Completion of Form SS 8583" portion of the reporting form. The changes will make the wording in the guidelines conform to the regulations as proposed to be amended.

### **AUTHORITY/REFERENCES**

The following authority and references are cited for the proposed action:

**Authority:** Section 11170(a)(1), Penal Code.

**References:** Sections 11165.7, 11165.9, 11165.12, 11166(a), 11166(h), 11166(i), 11166.3 (a), 11168, 11169(a), 11169(b), 11170 (a), Penal Code.

### **PUBLIC HEARINGS, WRITTEN COMMENT PERIOD, AND AGENCY CONTACTS**

#### **Public Hearings**

Public hearings will be held on the proposed amendments to the regulations as follows:

**9:30 AM Tuesday, June 19, 2001  
State Building, 1350 Front Street - Room B-102  
San Diego, CA**

**9:00 AM Tuesday, June 26, 2001  
Department of Justice, 4949 Broadway  
Training Center-Berryessa Room  
Sacramento, CA**

## **Written Comment Period**

Any interested persons, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the contact person listed below. The written comment period closes at **5:00 PM, June 25, 2001**. Written comments will also be taken at the June 26<sup>th</sup> hearing. Written comments may be submitted in person at the hearings or by letter, FAX or e-mail to the following:

**Martha Cook  
California Department of Justice  
Division of Criminal Justice Services  
Child Protection Program  
P.O. Box 903387  
Sacramento, CA 94203-3870**

**FAX - (916) 227-4094  
e-mail - [martha.cook@doj.ca.gov](mailto:martha.cook@doj.ca.gov)**

## **Agency Contacts**

Any requests for copies of items in the rulemaking file or any other material should be directed to:  
**Teresa Marshall, (916) 227-4116 or Earma Johnson, (916) 227-5050**

Requests for technical information, interpretations of subject matter, or DOJ policy regarding the regulations should be directed to:

**Martha Cook, (916) 227-3347**

## **INTERNET WEBSITE**

Copies of the notice, the initial statement of reasons and the regulations as proposed to be amended can be obtained by going to internet website: **<http://caag.state.ca.us/childabuse/>**.

## **AVAILABILITY OF INFORMATION PERTAINING TO THE PROPOSED ACTION**

The DOJ will have the rulemaking file available for inspection and copying throughout the rulemaking process. Initially the file will consist of this notice, the initial statement of reasons, the text of the proposed amendments to the regulations and information on which the proposal is based. The file will be available at:

**Department of Justice  
4949 Broadway  
Sacramento, CA 95820**

or from the contact persons, **Teresa Marshall or Earma Johnson**.

## **Availability of Changed or Modified Text**

After DOJ analyzes all timely and relevant comments received during the comment period, DOJ will either adopt the amendments to the existing regulations substantially as described in this notice or make modifications based on the comments. If DOJ makes modifications other than nonsubstantive technical or grammatical changes the modified text, with the changes clearly indicated, will be made available to the public for at least 15 days before DOJ adopts the revised amendments to the existing regulations. DOJ will accept written comments on the revised amendments for 15 days after the date on which they are made available.

## **Availability of the Final Statement of Reasons and the Rulemaking File**

A copy of the final statement of reasons and the entire rulemaking file may be obtained at the address or from the contact person shown above.

### **CONSIDERATION OF ALTERNATIVES:**

In accordance with Government Code section 11346.5(a)(13), DOJ must determine that no reasonable alternative considered by it or otherwise identified and brought to its attention, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

DOJ invites interested persons to present statements or arguments with respect to alternatives to the proposed amendments to existing regulations during the written comment period.

### **DISCLOSURES REGARDING THE PROPOSED ACTION**

**Cost Impact on Local Agencies and School Districts:** The proposed amendments to existing regulations will not create a local mandate and will not have a significant impact on local agencies and school districts and will not result in reimbursable costs. Local agencies (police departments, sheriff's departments, county probation departments, and county welfare departments) are already required by Penal Code sections 11169(a) and 11169(b) to report those items covered by the proposed amendments.

**Cost Impact on State Agencies and Federal Funding to the State:** Any state costs will be absorbed by the Child Protection Program within the Criminal Justice Information Services Division of DOJ.

The proposed amendments will impact the State Department of Social Services, which maintains a computerized version of the standard child abuse reporting form. No other state agencies will be impacted and there will not be any impact on any federal funding programs to the state.

**Non-Discretionary Costs or Savings:** The proposed amendments to existing regulations will not create any non-discretionary costs and will not generate any savings.

**Impact on California Businesses Including Small Businesses:** DOJ has made an initial determination that the proposed action will not have a significant statewide adverse economic impact directly affecting business, including small businesses. The proposed action will not impact the ability of California businesses to compete with businesses in other states. This determination is made based on the fact that only governmental entities, police departments, sheriff's departments, county probation departments, and county welfare departments are mandated to report child abuse information to DOJ.

**Cost Impacts on Representative Private Persons and Businesses:** The DOJ is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**Assessment of Job Creation or Elimination:** Adoption of the proposed amendments to existing regulations will not create or eliminate jobs in the State of California, nor will it result in the elimination of existing businesses in the state, the expansion of existing businesses in the state, or the creation of new businesses in the state.

**Impact on Housing Costs:** The DOJ has made an initial determination that there will be no impact on housing costs in California.